



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

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March 8, 2007

Members of the Board of Zoning Appeals
Metro Office Building
800 2nd Avenue, South
Nashville, TN 37210

RE: Case No. 2007-008
2400 Belmont Boulevard

Dear Members:

This case has been filed challenging my ruling that a fence that has been erected within a required setback area that exceeds two and one-half feet in height is not "open". The pertinent provision of the Zoning Code is as follows:

Section 17.12.040. Other Setbacks

(26) Screening Walls or Fences.

The maximum permitted height measured from finish grade level on the side of the wall or fence with the greatest vertical exposure shall be:

- (a) Two and one-half feet in height within ten feet of a street right-of-way.

Open fences, such as chain link or those of a similar nature are permitted to be six feet in height [emphasis added].

The question in the instant case is whether this fence is an "open fence", making it an exception to the height limits. My interpretation of the term "open fences" is and has been for over twenty years that, to qualify for the exception, a fence must be at least 50% open, 50% transparent or less than 50% opaque as viewed perpendicular to the fence. The fence in question is completely opaque as viewed perpendicular to it, as seen in the photographs in the case file.

The applicant has also filed this case as an "item (b)" appeal, requesting a variance in height and setback.

Very Truly Yours,

Lon F. West
Zoning Administrator

LFW:lh